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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/862,871	05/22/2001	Yves Patrick Lajouanic	56828264-4	1076
26453 7590 08/24/2007 BAKER & MCKENZIE LLP 1114 AVENUE OF THE AMERICAS NEW YORK, NY 10036			EXAMINER STERRETT, JONATHAN G	
			ART UNIT 3623	PAPER NUMBER
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	Application No. 09/862,871	Applicant(s) LAJOUANIE, YVES PATRICK	
	Examiner Jonathan G. Sterrett	Art Unit 3623	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 June 2007.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-9, 16-19 and 23-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-9, 16-19 and 23-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>6-7-07</u> . | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Summary*

1. This **Final Office Action** is responsive to applicant's amendment filed June 7, 2007. Currently **Claims 1-3, 6-9, 16-19 and 23-26** are pending.

### *Response to Amendment*

2. The 35 USC 101 rejections are withdrawn.

### *Response to Arguments*

3. The applicant's arguments have been fully considered, but they are not persuasive.
4. The applicant argues on page 16 that Bonabeau does not teach predefined business performance models because Bonabeau teaches "new" models  
The examiner respectfully disagrees.  
Bonabeau's models are predefined in the sense that they are constructed prior to the simulation being executed. In para 10, Bonabeau teaches that modules are used to construct the models prior to running them in a simulation to predict what the business model forecasts for the actual business model prior to it being conducted in a real world context. In at least this sense, the models of Bonabeau are predefined.

5. The applicant argues on page 16 that Bonabeau does not teach plurality of predefined business performance models.

The examiner respectfully disagrees.

In para 10, Bonabeau teaches that the building blocks can be assembled in various ways to construct different models (i.e. a plurality of) to model various scenarios. Since there is more than one scenario that is modeled, this meets the limitation of a plurality of business performance models that are predefined for the scenarios.

6. The applicant argues on page 16 that Bonabeau does not teach monitoring a business activity.

The examiner respectfully disagrees.

As discussed above, Bonabeau teaches constructing models using modules. Figure 5 #43 shows that models are measured. This measurement is monitoring because the models are being monitored to determine how various revenue models are going to function in the real world.

7. The applicant argues on pages 16 and 17 that Bonabeau does not teach analyzing an existing business activity.

The examiner respectfully disagrees.

Bonabeau teaches that a business activity at least in para 24 where models are used to analyze an existing business activity through simulation. The examiner notes

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that the phrase "existing" is an extremely broad limitation and at least includes business activities that are existing in the context of the simulation that Bonabeau is teaching.

8. The applicant argues on pages 18 and 19 that Bonabeau does not teach the limitations of Claims 1, 16, and 17, as recited verbatim from the claims.

The examiner respectfully disagrees.

Applicant's arguments fail to comply with 37 CFR 1.111(b) because they amount to a general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the references.

9. The applicant argues on pages 20 and 21 that there is no suggestion or motivation to combine the references.

The examiner respectfully disagrees.

The secondary teaching of Van der Aalst teaches that using subprocesses provides for additional layers of detail so that real world processes' complexity can be accurately represented in the hierarchical processes representing real world business processes. The advantage of using Van der Aalst's teachings in combination with Bonabeau is that the models of Bonabeau would reflect more accurately the real world processes modeled by accounting for the complexity of those real world processes.

***Claim Rejections - 35 USC § 103***

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. **Claims 1-3, 16 and 23-29** are rejected under 35 U.S.C. 103(a) as being unpatentable over **Bonabeau US2001/0053991**.

Regarding **Claim 1**, Bonabeau discloses:

**analyzing the business activity; and**

Page 2 paragraph 19 line 1-4, analysis component provides information on why business is successful:

**determining at least one performance criterion applicable to the business activity, the at least one performance criterion being operable to validate that the business activity is in compliance with an expected behavior of the business activity;**

page 25, the output of the model provides a criterion of the business activity being modeled – these criteria (e.g. qualities of the goods/services modeled). They validate that the behavior is in compliance with expected behavior – e.g. pricing / cost relationships follow an expected behavior according to how that module specifies the movement of cost and price.

**selecting at least one predefined business performance model from a plurality of predefined business performance models base upon the at least one performance criterion.**

Page 8 paragraph 86 line 1-3, business performance models are illustrated as models 11 and 13.

Page 9 paragraph 97 line 1-7, business models are ranked in a business ecosystem based on the performance of their associated performance models. For this ranking to occur, predefined business performance models are selected to monitor the performance of a business model in the ecosystem – see figure 6 #3 performance models are selected – in this case four potential models are selected.

Para 25, the selection of cost/price module is included, for example, based on how the builder of the model wishes to validate or test how the model will predict or validate cost and price movements.

**monitoring the business activity using the at least one selected predefined business model;**

para 59, the business models are monitored according to their output parameters – these parameters are specified in advance based on which modules are selected.

**Displaying performance data of the monitored business activity.**

Figure 12b shows the monitoring of the performance data of the simulation (i.e. the monitored business activity).

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Bonabeau does not teach where the models are for determining compliance, i.e. regulatory compliance which measures performance being in accordance with regulatory requirements.

However, it is old and well known to use performance parameters that characterize business processes to determine compliance with regulatory requirements. These performance parameters (e.g. processing activities within a certain amount of time) are known to be important to a business to avoid penalties.

Since Bonabeau teaches pricing and cost functions and financial performance that is time related, it would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bonabeau to include measuring compliance where the compliance means performing according to regulatory requirements, because it would provide a way for the business to avoid penalties by ensuring that compliance was met as simulated by the business model.

Regarding **Claim 2**, Bonabeau discloses:

**selecting a category of users;**

para 137, the category of users is based upon the particular type of ISP that is modeling the system.



**and generating an interface based on the at least the selected predefined business performance model and the selected category of users for displaying performance data of the business activity,**

Figure 12b is an interface based on the particular ISP value proposition that is being modeled and what performance parameters that have been selected based on the value proposition – see also Figure 2.

**wherein the displaying the performance data of the monitored business activity includes displaying the performance data to the category of users; and generating the interface includes selecting the interface from a plurality of predefined interfaces.**

Figure 12b, the performance data is displayed based on the creation of the model and what performance parameters have been selected to be modeled. The output interface is selected based on which performance metrics are being modeled (i.e. a predefined set of interfaces).

Regarding **Claim 3**, Bonabeau discloses:

**Wherein the plurality of predefined business performance models is a first business performance model, a second business performance model and a third business performance model.**

Page 2 paragraph 23 line 4-7, Value proposition (VP)'s describe output values provided by businesses.

Page 11 paragraph 110 line 1-3, Value propositions (VP)s are composed of building blocks that are assembled to create an overall business performance model for a particular business, including but not limited to a first, second and third, business performance model.

Figure 6 #3 shows a first, second, and third business performance model labeled M1, M2 and M3 respectively.

**wherein the first business performance model are used to monitor the performance of at least one business activity involving at least one user accessing a service in order to perform at least one transaction requiring an immediate response.**

Page 11 paragraph 111, Business model uses a value proposition, VP, of connection speeds to the internet.

Page 11 paragraph 119, Business model uses a value proposition, VP, of user downloads, that is, a user downloading something from the internet. This is a transaction requiring an immediate response, because the user selects an item to be downloaded, a webpage or data, and that selection requires an immediate response.

Page 11 paragraph 144, the customer model that determines the success of the business model is 'sensitivity to quality of service' for example, response time to internet interaction. The business performance model is used to monitor the performance of at least one business activity, in this case 'response time' to internet activity, which is at least one activity involving at least one user accessing a service to perform at least one transaction requiring an immediate response.

**wherein the second business performance model are used to monitor the performance of at least one business activity involving a flow of data having to be processed through at least one application and then distributed.**

Figure 6 shows four business models for monitoring performance which according to page 11 paragraph 110, can be composed of a number of value propositions, including, mailbox usage.

Page 11 paragraph 116, mailbox usage value proposition is a building block to a performance model that is a business activity involving a flow of data having to be processed through at least one application and then distributed.

**wherein the third business performance model are used to monitor the performance of at least one business activity involving at least one operation that needs to be completed before a predetermined time.**

Figure 6 shows four business models for monitoring performance which according to page 11 paragraph 110, can be composed of a number of value propositions, including, limited connection time to the internet.

Page 11 paragraph 113, limited connection time. The user has a limited time to at least log on to the ISP and be connected. The logging on and any ISP activity would have be completed prior to a predetermine time specified by the amount of their limited connection time.

**Claims 23-25** recites limitations handled by the rejections of **Claims 1-3** above, and are therefore rejected under the same rationale.

Regarding **Claim 16**, the limitations are disclosed above by Bonabeau except for:  
**selecting at least one business performance model from the plurality of business performance models for monitoring a performance of the business activity;**

Para 20, a plurality of different kind of business performance models are defined and at least one is selecting for determining how that model will perform. These business performance models are chosen in conjunction with appropriate customer performance models (para 21).

**each business performance model associated with at least one performance criteria.**

Para 11 metrics for evaluating performance (i.e. performance criteria) include profit, revenue and market share.

**Claims 26-29** recite similar limitations to those addressed by the rejection of **Claims 1-3 and 16** above, and are therefore rejected under the same rationale.

12. **Claims 6-9, 17, 18 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Bonabeau in view of Van der Aalst.

Van der Aalst, W.M.P., "The Application of Petri Nets to Workflow Management", The Journal of Circuits, Systems, and Computers, pp.1-53.

Regarding **Claim 6**, Bonabeau teaches:

A first, second and third business performance model, as discussed above.

Each business performance model is based upon a building block of a value proposition.

Bonabeau does not teach:

**The first, second, and the third business performance model each include a plurality of predefined sub-processes.**

Van der Aalst teaches processes having sub-processes (Page 14 paragraph 3 line 1-5) and that high level processes can be modeled to include more detailed sub-processes. Van der Aalst teaches that using hierarchy in modeling processes and subprocesses allows subprocesses to provide the necessary complexity and detail reflected by real world processes (Page 13 paragraph 3.2 line 1-3).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bonabeau regarding using business performance models to include models having a plurality of predefined sub-processes, as taught by Van der Aalst, because it would provide the ability to better model business performance using subprocesses that provide necessary complexity reflected in real world processes.

Regarding **Claim 7**, Bonabeau teaches:

A first, second and third business performance model, as discussed above.  
Each business performance model is based upon a building block of a value proposition.

Bonabeau does not teach:

**Wherein the plurality of predefined sub-processes for the first business performance model, for the second business performance model and for the third business performance model include a first sub-process, a second sub-process and a third sub-process.**

Van der Aalst teaches:

**Wherein the plurality of predefined sub-processes for the first business performance model, for the second business performance model and for the third business performance model include a first sub-process, a second sub-process and a third sub-process.**

Page 14 paragraph 3 line 4-6, subnets or subprocesses contain subsystems. The hierarchy here taught by Van der Aalst allows for complex models of processes to be built in layers, allowing for a high level of complexity without having one layer that is too complex to understand. This would include any number of subprocesses including a first, second, and third subprocess. The hierarchy of Petri nets as applied to modeling business processes allows for an unlimited number of hierarchies and an unlimited number of subprocesses including a first, second and third subprocess.

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It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bonabeau regarding using business performance models to include models having a plurality of predefined sub-processes, including a first, second and third subprocess, as taught by Van der Aalst, because it would provide the ability to model business performance using subprocesses that provide necessary complexity

Regarding **Claim 8**, Bonabeau teaches:

A first, second and third business performance model, as discussed above. Each business performance model is based upon a building block of a value proposition.

Bonabeau does not teach:

**Wherein the plurality of predefined sub-processes of the first business performance model, the second business performance model and the third business performance model each include one or more predefined metrics.**

Van der Aalst teaches:

**Wherein the plurality of predefined sub-processes of the first business performance model, the second business performance model and the third business performance model each include one or more predefined metrics.**

As discussed above, Van der Aalst teaches the use of subprocesses and hierarchies modeled using Petri nets to model workflow processes.

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Page 32 paragraph 3 line 5-7, Van der Aalst teaches using a variety of key performance metrics, e.g. average throughput and average waiting time. These apply to any and all subprocesses within a workflow management process including various hierarchies of a process.

Van der Aalst teaches that performance analysis enables an organization to meet requirements with respect to throughput, service levels and resource utilization. (page 32 paragraph 1 line 6-7).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bonabeau regarding using business performance models to include using performance metrics for each of the subprocesses, as taught by Van der Aalst, because it would enable an organization to meet requirements with respect to throughput service levels and resource utilization.

Regarding **Claim 9**, Bonabeau teaches:

Modeling business performance using models based on modules, as discussed above. Bonabeau also teaches using Petri nets, which are models of processes, to model customer behavior (page 9 paragraph 95 line 1-2).

Bonabeau does not teach:

**Wherein the business activity is a business process.**

Van der Aalst teaches:



**Wherein the business activity is a business process.**

Page 1 paragraph 1 line 1-2. workflow management is a way to control business processes.

Page 1 paragraph 2 line 1-3, IS systems need to support the business processes and not just the tasks. Van der Aalst teaches that the business processes and tasks are activities in the business.

Page 22 paragraph 4.3 line 6-7, tasks are activities that make up steps in a workflow process – in this example an employee is executing a task.

Van der Aalst teaches that because of the complex nature of businesses, there is a need to apply workflow management tools to model the business activity as a process and use WFMS tools to manage the process.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bonabeau regarding using business performance models to include wherein the business activity is a business process, as taught by Van der Aalst, because it would enable an organization to effectively manage business activities that are complex in nature by modeling them.

Regarding **Claim 17**, Bonabeau teaches the same functionalities recited as discussed in **Claim 1**. Furthermore, Bonabeau discloses the elements of the claim, i.e.

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a user interface for viewing performance data. (para 107, the MATLAB package used for processing code to simulate models has an interface for viewing the results of the simulation, i.e. the performance data).

Bonabeau teaches:

**The computer storing at least one predefined business performance model and to generate performance data using the predefined business performance model,**

Para 108, the instructions are loaded into memory,

Para 103, the outputs of the simulation generate performance data (i.e. some models generate profit, others lose market share). – these outputs are generated from models defined before the simulation started, i.e. predefined models.

**the computer analyzing the business activity**

Para 103, rankings of the models are computer analyses of the business activity because they require a determination of how the models are listed in order. See also para 105, a portrayal of the financial performance is an analysis.

**selecting at least one business performance model from the plurality of business performance models for monitoring a performance of the business activity;**

Para 20, a plurality of different kind of business performance models are defined and at least one is selecting for determining how that model will perform. These business performance models are chosen in conjunction with appropriate customer performance models (para 21).

**each business performance model associated with at least one performance criteria.**

Para 11 metrics for evaluating performance (i.e. performance criteria) include profit, revenue and market share.

(the examiner notes that the intended use recitation “to monitor” and “to display” are intended use recitations and do not further limit the claim).

Bonabeau teaches a computer for performing modeling of a simulation (para 108). Bonabeau notes that a “powerful” computer, e.g. a workstation, may be used for performing the simulation.

Bonabeau teaches uploading models over a network to a computer (para 107).

Bonabeau does not teach a explicitly teach a server to perform the model simulation.

However, Official Notice is taken that it is old and well known in the art to upload information to a server for the server to process. This approach, i.e. distributed computing using a server, is known to provide flexibility to the user, since the user can be remotely located and access the server over a network (e.g. the internet).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the teachings of Bonabeau, regarding uploading information to a computer, to include the step of uploading the information to a server over network, because it would providing flexibility to the user in performing modeling simulations.

**Claims 18 and 19** recite limitations handled by the rejections of **Claims 6-9** above, therefore the same rejection applies.

***Conclusion***

13. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jonathan G. Sterrett whose telephone number is 571-272-6881. The examiner can normally be reached on 8-6.


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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tariq Hafiz can be reached on 571-272-6729. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

16. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JGS 8-14-2007

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